

## **MINUTES**

### **EAU CLAIRE CITY COUNCIL LEGISLATIVE MEETING**

**Tuesday, February 23, 2016**

**City Council Chamber**

**4:00 p.m.**

#### **PLEDGE OF ALLEGIANCE AND ROLL CALL**

Council President Kincaid called the meeting to order. The following members were present: Council Members Catherine Emmanuelle, Kerry Kincaid, David Klinkhammer, Kathy Mitchell, David Strobel, Tim Tewalt, Bob Von Haden, Andrew Werthmann, and Michael Xiong. Absent: Council Members Eric Larsen and Monica Lewis.

#### **CONSENT AGENDA**

The Council considered a resolution adopting the Consent Agenda for the following items of routine business on Tuesday, February 23, 2016:

- Approving Minutes of Regular Meeting of February 9, 2016.
- Granting new bartender licenses.
- Granting a Class A Fermented Malt Beverage license to CAP Operations, Inc., d/b/a Holiday #40, 2205 Eddy Lane, Patricia K. Laughlin, agent.
- Granting a Class A Fermented Malt Beverage license to Cenergy LLC., d/b/a Mega Holiday #3734, 3314 E. Hamilton Avenue, Jeffrey S. Julson, agent.
- Granting a Class A Fermented Malt Beverage license to Cenergy LLC., d/b/a Mega Holiday #3736, 2611 Birch Street, Jeffrey S. Julson, agent.
- Granting Change of Agent for the Combination Class B Intoxicating Liquor and Fermented Malt Beverage license of Pine Meadow Golf Club and Dining, Inc., d/b/a Pine Meadow Golf Club & Dining, 4324 Fairfax Park Drive, from Jody M. Anderson to Mark W. Held.
- Granting a new Secondhand Article Dealer license to ecoATM, Inc., d/b/a ecoATM #3 at 4800 Golf Road.
- Preliminary Resolution for street, utility, and sidewalk improvements on the following streets:
  - N. Hastings Way E. Frontage Road, Seymour Road to Peebles Street (16-203)
  - Summit Avenue, Thorp Drive to State Street (16-111)
  - Park Avenue, Summit Avenue to Garfield Avenue (16-107)
  - Park Place, Park Avenue to 410 feet west (16-108)
  - Mt. Nemo Avenue, Shale Ledge Road to 118 feet north (16-204)
  - Wedgewood Avenue, Shale Ledge Road to 154 feet north (16-205)
- Preliminary Resolution for sidewalk improvements on the following streets:
  - Damon Street, south side, London Road to Southtowne Drive
  - Southtowne Drive, west side, Damon Street to 285 feet south
  - Southtowne Drive, north side, London Road to 150 feet east
  - Southtowne Drive, south side, Southtowne Place to 140 feet west
  - Southtowne Place, west side, Southtowne Drive to Golf Road
  - Southtowne Place, east side, Golf Road to 235 feet north.

Thereupon a motion was offered by Council Member Klinkhammer and seconded by Council Member Tewalt "to adopt the consent resolution". Said motion passed by unanimous vote.

## **AGREEMENTS**

The City Council considered a resolution approving the Memo of Understanding between the City and Chippewa Valley Predators Football Inc. for use of the Carson Park Football Stadium. Thereupon a motion was offered by Council Member Emmanuelle and seconded by Council Member Von Haden “to adopt the resolution”. Said motion passed by unanimous vote.

The Council considered a resolution approving the Memo of Understanding between the City and Eau Claire National Little League and Eau Claire Girls Fastpitch Softball for use of the Jeffers Park fields. Thereupon a motion was offered by Council Member Werthmann and seconded by Council Member Mitchell “to adopt the resolution”. Thereupon a motion was offered by Council Member Strobel and seconded by Council Member Von Haden “to amend the resolution by removing Section 5, Fermented Malt Beverage Sales, and re-numbering the remaining sections”. After further discussion, said motion to amend was withdrawn by the mover and seconder. Thereupon a motion was offered by Council Member Strobel and seconded by Council Member Klinkhammer “to postpone consideration of said resolution to allow staff additional time to work with the two organizations on revisions to Section 5 of the MOU regarding the sale of Fermented Malt Beverage so Eau Claire Girls Fastpitch would have exclusive permission to sell fermented malt beverages within the boundaries of Jeffers Park, but said beverages shall only be sold at adult events (18+ years of age)”. Said motion to postpone was adopted on a unanimous voice vote.

The Council considered a resolution authorizing the City Manager to enter into a Joint Funding Agreement with the United States Geological Survey for the operation and maintenance of the Chippewa River gauge at Grand Avenue. Thereupon a motion was offered by Council Member Xiong and seconded by Council Member Strobel “to adopt the resolution”. Said motion passed by unanimous vote.

Council Member Larson arrived in the Council Chamber.

## **GRANT**

The City Council considered a resolution authorizing the City to accept a Wisconsin Department of Natural Resources Urban Wildlife Damage Abatement and Control Grant. Thereupon a motion was offered by Council Member Klinkhammer and seconded by Council Member Tewalt “to adopt the resolution”. Said motion passed by the following vote: Aye: Council Members Emmanuelle, Kincaid, Klinkhammer, Larsen, Mitchell, Tewalt, Von Haden and Xiong. Nay: Council Members Strobel and Werthmann.

## **PUBLIC MARKET FEASIBILITY**

The City Council considered a resolution appointing a City Council Representative to the Public Market Feasibility Study Steering Committee. Thereupon a motion was offered by Council Member Mitchell and seconded by Council Member Tewalt “to insert the names of Council Members Werthmann and Larsen into the resolution”. Said motion was adopted by unanimous voice vote. Thereupon a motion was offered by Council Member Emmanuelle and seconded by

Council Member Von Haden “to adopt the resolution appointing Council Members Larsen and Tewalt as the Council’s representatives to the Committee”. Said motion passed by unanimous vote.

### **STREET IMPROVEMENT PROJECTS**

The City Council considered a Final Resolution approving the project and levying special assessments for street and utility improvements on the following streets:

- W. Fillmore Avenue, State Street to S. Lexington Boulevard (16-103)
- W. Lexington Boulevard, W. Polk Avenue to W. Hamilton Avenue (16-105)
- Melby Street, N. Hastings Way to 115th Street (16-100)
- Oxford Avenue, W. Grand Avenue to W. Madison Street (16-106)
- Spruce Street, Oxford Avenue to Fifth Avenue (16-202)
- Churchill Street, Summit Street to Birch Street (16-102).

Council Members agreed to divide the question and take a separate vote on the Melby Street project. The Council discussed the remaining projects. Thereupon a motion was offered by Council Member Werthmann and seconded by Council Member Mitchell “to adopt the resolution approving the remaining projects”. Thereupon a motion was offered by Council Member Strobel and seconded by Council Member Von Haden “to amend Project 16-106, Oxford Avenue, W. Grand Avenue to W. Madison Street to include raising the grade of Oxford Avenue and constructing an at-grade crossing of the bicycle and pedestrian trail, rather than an underpass, at the trail’s current location”. Said motion to amend passed by unanimous voice vote. Thereupon a motion was offered by Council Member Werthmann and seconded by Council Member Strobel “to amend Project 16-106, Oxford Avenue, W. Grand Avenue to W. Madison Street to include a striped / marked pedestrian crossing at the north side of the intersection of Oxford Avenue and Central Street”. Said motion passed by following vote: Aye: Council Members Emmanuelle, Larsen, Strobel, Tewalt, Von Haden, Werthmann and Xiong. Nay: Council Members Kincaid, Klinkhammer and Mitchell. The Council then considered the resolution approving the five projects as amended. Said resolution was adopted by unanimous vote.

### **MELBY STREET**

The Council considered the Melby Street project (16-100), street and utility improvements on Melby Street, N. Hastings Way to 115th Street. Thereupon a motion was offered by Council Member Xiong and seconded by Council Member Klinkhammer “to adopt the resolution approving the project and levying special assessments”. Thereupon a motion was offered by Council Member Tewalt and seconded by Council Member Klinkhammer “to amend the resolution by removing the installation of water main & services and sanitary sewer & services”. Said motion failed on the following tie vote: Aye: Council Members Kincaid, Strobel, Tewalt, Von Haden and Xiong. Nay: Council Members Emmanuelle, Klinkhammer, Larsen, Mitchell and Werthmann.

Thereupon a motion was offered by Council Member Von Haden and seconded by Council Member Tewalt “to amend the resolution by inserting the following paragraphs and re-numbering the remaining paragraphs accordingly:

7. That the special assessments against Parcel No. 16-0429 (3925 N. Hastings Way) are hereby modified, to defer the payment date for Water Mains, Water Services, Sanitary Sewer Mains, and Sanitary Sewer Services; and Street Improvements for the 1,152 feet of frontage adjacent to the deed restricted area of the parcel, until such time as one of the following occurs:
  - a. Use is made of the Water Mains, Water Services, Sanitary Sewer Mains, or Sanitary Sewer Services in Melby Street by the assessed property;
  - b. Any portion of the property abutting Melby Street is sold, subdivided, or developed;
  - c. The deed restriction on the portion of the property abutting Melby Street is removed.

All deferred assessments shall accrue interest at a rate of 3% per annum beginning one (1) year after the completion of this project.

8. That when any of the conditions outlined in section 7 are met, the deferred special assessments shall become due and payable. The deferred special assessments may be paid in cash or in ten (10) annual installments to the City Clerk, deferred payments to bear interest at the rate of 6% per annum on the unpaid balance; provided, that the assumption of the then remaining installment payments is not permitted following a conveyance of such property, pursuant to Sec. 3.16.020, Eau Claire General Ordinances. Installments or assessments not paid when due shall bear additional interest on the amount due at the rate of 6% per annum.”.

After extended Council discussion, said motion to amend was withdrawn by the mover and seconder. Thereupon a motion was offered by Council Member Von Haden and seconded by Council Member Strobel “to postpone consideration of said resolution until the April 12, 2016 City Council meeting to allow staff additional time to negotiate with National Presto regarding limited, temporary easements needed for the project to proceed”. Said motion to postpone passed by unanimous vote.

Council Member Von Haden left the Council Chamber.

The City Council considered a resolution ordering sidewalk to be repaired in accordance with Wisconsin Statute s.66.0907 on the following streets:

- W. Fillmore Avenue, State Street to S. Lexington Boulevard (16-103)
- W. Lexington Boulevard, W. Polk Avenue to W. Hamilton Avenue (16-105)
- Oxford Avenue, W. Grand Avenue to W. Madison Street (16-106)
- Spruce Street, Oxford Avenue to Fifth Avenue (16-202)
- Churchill Street, Summit Street to Birch Street (16-102).

Thereupon a motion was offered by Council Member Klinkhammer and seconded by Council Member Tewalt “to adopt the resolution”. Said motion passed by unanimous vote.

## **ZONING**

The Council considered an ordinance rezoning property at 1005 Oxford Avenue (First Lutheran Church) from RM to C-1P and to adopt the General Development Plan for the Boys and Girls Club as shown on Planning File Z-1574-16. Thereupon a motion was offered by Council Member Larsen and seconded by Council Member Emmanuelle “to adopt the ordinance”. Said motion passed by unanimous vote.

The City Council had first reading on an ordinance amending Chapter 10.24 of the City Code of Ordinances entitled “Special Parking Restrictions” relating to bus stops and bike lanes.

The City Council had first reading on the following ordinances to update sections of the City Code of Ordinances:

- Amending Chapter 5.56 - Massage Therapy Facilities and the Practice of Massage Therapy.
- Creating Chapter 5.57 - Escort Service License.
- Amending Chapter 5.04 - Pawnbrokers.

Thereupon a motion was offered by Council Member Klinkhammer and seconded by Council Member Mitchell “to suspend the rules which interfere with the immediate consideration of the ordinance creating Chapter 5.57 of the City Code of Ordinances to be entitled ‘Escort Service License’. Said motion to suspend the rules passed by unanimous vote.

Council Member Von Haden returned to the Council Chamber.

Thereupon a motion was offered by Council Member Mitchell and seconded by Council Member Larsen “that consideration of said ordinance be postponed until the May 9<sup>th</sup> and 10<sup>th</sup> City Council meetings”. Said motion to postpone passed by unanimous vote.

## **ADJOURNMENT**

A motion was offered by Council Member Strobel and seconded by Council Member Klinkhammer “that this meeting does now adjourn without objection.” Said motion passed by unanimous consent.

Adjournment: February 23, 2016

Time: 6:23 p.m.

ATTEST:

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Kerry J. S. Kincaid, President

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Donna A. Austad, City Clerk